

By way of example, one such embodiment is distal tip portion 346 of catheter device 344 illustrated in Figures 23 and 24 and described in the specification of the above-captioned application as originally filed from page 85, line 20, through page 89, line 4.

As recited in paragraph (a) of new Claim 40, distal tip portion 346 of catheter device 344 can be seen to include catheter tube 14 having a principal or longitudinal axis that is coincident with longitudinal axis L_{346} of distal portion 346. Catheter tube 14 includes an outer diameter D_{14} shown in Figure 24, an internal passage in the form of lumen 34 having a diameter D_{34} , and an otherwise open distal terminus for lumen 34 that is encircled by distal surface 38 of outer wall 26 of catheter tube 14.

As recited in paragraph (b) of new Claim 40, distal portion 346 of catheter device 344 also includes a hollow cap in the form of distal extension 278 that is secured to distal surface 38 of outer wall 26 of catheter tube 14. Distal extension 278 has an essentially flat endwall 270 at the distal end thereof. By this arrangement, endwall 270 is positioned facing the open distal terminus of lumen 34 in catheter tube 14.

As recited in paragraph (c) of new Claim 40, a slit 354 capable of operating as a valve is formed through endwall 270, thereby to afford fluid communication with lumen 34 in catheter tube 14 from the exterior of distal portion 346 of catheter device 344 by way of fluid passageway 281 in distal extension 278. As illustrated in detail in the series of Figures 25A-25C and described in the specification as originally filed from page 89, line 5, through page 90, line 17, slit 354 reacts to pressure differences on either side of endwall 270 to permit circulation of fluid from or into a duct of a human or animal body, such as a passageway in the cardiovascular system, in which distal portion 346 of catheter device 344 is implanted. As slit 354 traverses the full extent of

endwall 270 and portions of outer wall 279 of distal extension 278 immediately adjacent thereto, slit 354 has a length as measured along the exterior of distal portion 346 shown in Figure 23 that is greater than the outer diameter of endwall 270.

Finally, as recited in paragraph (d) of new Claim 40, endwall 270 of distal extension 278 is spaced from distal surface 38 of outer wall 26 of catheter tube 14 at the distal terminus of catheter tube 14 by a predetermined distance equal to length F_{281} of fluid passageway 281 within distal extension 278.

In view of the above, it is respectfully submitted that new Claim 40 is fully supported in the above-captioned application as originally filed. Entry thereof is respectfully requested.

B. Request for Interference

Pursuant to 37 C.F.R. § 1.607, it is respectfully requested that an interference be declared between the above-captioned application and an issued United States patent.

The information required by 37 C.F.R. § 1.607(a) is set forth below under headings which correspond, respectively, to the subsections of 37 C.F.R. § 1.607(a).

1. Identification of the Patent Which Includes Subject Matter Which Interferes with the Application

The patent that claims subject matter that interferes with subject matter claimed in the above-captioned application is United States Patent No. 5,984,903 to Nadal (hereinafter "the Nadal Patent") that issued on November 16, 1999, for "Catheter Having a Valve With a Bi-Directional Axial Slits."

The Nadal Patent issued from United States Patent Application Serial No. 894,287 that was filed on August 21, 1997, as a national-phase patent application of International Patent Application Serial No. PCT/FR96/01983 filed on December 11, 1996.

B. Braun Celsa is the assignee named on the face of the Nadal Patent.

2. Presentation of a Proposed Count

The attached Appendix A sets forth a proposed count.

The proposed count is a copy of Claim 7 of the Nadal Patent with paragraph designations added.

3. Identification of Claim of the Nadal Patent That Corresponds to the Proposed Count

Claim 7 of the Nadal Patent corresponds to the proposed count.

4. Claim of the Above-Captioned Application That Corresponds to the Proposed Count

New pending Claim 40 is identical to and thus corresponds to the proposed count.

The attached Appendix B is a chart providing an element-by-element recitation of new Claim 40 and an indication of portions of the above-captioned application as originally filed at which Claim 40 finds support.

5. Timing

The presentation herein in the form of new Claim 40 of a copy of Claim 7 of the Nadal Patent, and the request for interference also contained herein, are being made within one (1) year of the issue date of the Nadal Patent in conformity with the requirements of 35 U.S.C. § 135(b).

The filing date of the above-captioned application is more than three (3) months after the issue date of the Nadal Patent.

Nonetheless, the undersigned respectfully declares on information and belief that the inventor named on the above-captioned application is *prima facie* entitled to priority of invention of the subject matter recited in the proposed count relative to the inventor named on the Nadal Patent.

In consequence thereof, proffer is hereby made to effect a submission under 37 C.F.R. § 1.608(b) of evidence demonstrating such a *prima facie* entitlement to a judgment based on priority relative to the Nadal Patent. The submission under 37 C.F.R. § 1.608(b) will be effected separately from this document within a period of three (3) months, which according to representations received in a telephone conference this date with assigned Examiner Anh Tuan Nguyen is calculated to be well in advance of the need or opportunity of any assigned Administrative Patent Judge to evaluate the sufficiency thereof.

C. Conclusion

Claims 1-40 are now presented for examination on the merits.

It is respectfully requested that an interference be declared employing the proposed count set forth on the attached Appendix A with Claim 7 of the Nadal Patent and with new pending Claim 40.

DATED this 16th day of November, 2000.

Respectfully submitted,


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APPENDIX A

PROPOSED COUNT

Catheter for controlling the circulation of fluid therethrough, from or to a duct of a human or animal body in which the catheter is inserted, the catheter comprising:

- (a) a tubular body having a principal axis and having an outside diameter, an internal passage of an inside diameter, and a distal end having an opening that communicates with the passage;
- (b) a cap that is affixed to the distal end of the body of the catheter, the cap having an essentially flat distal wall facing the open distal end of the body; and
- (c) a slit forming a valve through the flat distal wall of the cap, to communicate with the passage in the body of the catheter, the valve reacting to pressure differences on either side thereof, for the circulation of the fluid from or to the duct, the slit having a length that is greater than the outside diameter of the flat distal wall of the cap;
- (d) wherein the flat distal wall of the cap is spaced from the distal end of the catheter body by a predetermined distance.

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APPENDIX B

SUPPORT IN SPECIFICATION FOR NEW CLAIM 40

Claim Recitations	Supportive Disclosure
40. Catheter for controlling the circulation of fluid therethrough, from or to a duct of a human or animal body in which the catheter is inserted, the catheter comprising:	Distal portion 346 of catheter device 344. See Figures 23 and 24 described from page 85, line 20, through page 89, line 4.
(a) a tubular body having a principal axis and having an outside diameter, an internal passage of an inside diameter, and a distal end having an opening that communicates with the passage;	Catheter tube 14; lumen 34.
(b) a cap that is affixed to the distal end of the body of the catheter, the cap having an essentially flat distal wall facing the open distal end of the body; and	Distal extension 278; endwall 270.
(c) a slit forming a valve through the flat distal wall of the cap, to communicate with the passage in the body of the catheter, the valve reacting to pressure differences on either side thereof, for the circulation of the fluid from or to the duct, the slit having a length that is greater than the outside diameter of the flat distal wall of the cap;	Slit 354. See Figures 25A-25C described from page 89, line 5, through page 90, line 17.
(d) wherein the flat distal wall of the cap is spaced from the distal end of the catheter body by a predetermined distance.	Length F_{281} of fluid passageway 281 in distal extension 278.

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